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**MEMO ENDORSED**

May 28, 2008

**REGULAR MAIL and ECF**

Honorable Lisa Margaret Smith  
United States District Court  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601

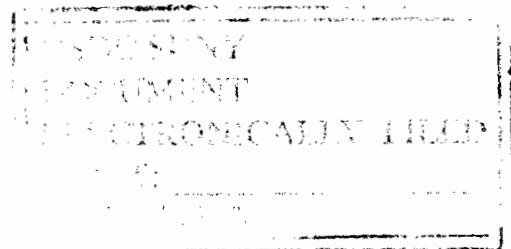
Re: **Jesse O'Brien v. City of Yonkers, et al.**  
**07 CV 3974 (LMS)(KMK)**

Your Honor:

I represent plaintiff Jesse O'Brien in the above referenced civil rights action brought pursuant to 42 U.S.C. § 1983. I write now to respectfully request: (1) leave to amend the Complaint to add a new named defendant, Sergeant Kevin Scully ("Sgt. Skully"); and (2) a brief extension of the discovery deadline, which is currently May 30, 2008, so as to allow the parties to locate and depose non-party witness Nicole Beckford. Defense counsel, Rory McCormack, consents to both of these requests.

At this point, depositions of all parties have been held, and documentary discovery has been completed as well.<sup>1</sup> As result of such discovery, plaintiff has learned that Sgt. Skully was involved in this incident not solely as a supervisor – as plaintiff had initially believed – but rather, as one of the two arresting officers responsible for plaintiff's arrest. Based on this information, plaintiff wishes to add Sgt. Skully as a direct defendant in this action. Since leave to amend pleadings is freely granted – and since there is no claim of prejudice here by defendants – plaintiff respectfully requests that the Court issue an Order permitting plaintiff to add Sgt. Skully as a defendant on or before June

<sup>1</sup>The parties are still awaiting receipt of the trial transcript, but all other documents have been exchanged.



13, 2008. As noted above, defense counsel consents to this request.<sup>2</sup>

With respect to non-party witness Nicole Beckford, plaintiff has learned that this witness no longer works at St. Joseph's Hospital.<sup>3</sup> Plaintiff has served a subpoena on the hospital for the last known address of this witness, and it is expected that this information will be obtained in the near future. However, even after the information is obtained, additional time will be required to serve this witness with a subpoena, and then to choose a date that is mutually agreeable to all sides. Given these considerations, plaintiff respectfully requests a 30 day extension until June 30, 2008, so as to allow sufficient time to take the deposition of non-party witness Nicole Beckford.

Thank you for your consideration of this request.

Sincerely,



Jon L. Norinsberg

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<sup>2</sup>Both sides agree that such an amendment is considerably more economical than starting a separate action against Sgt. Skully, and then moving to consolidate the new action with the existing action.

<sup>3</sup>Ms. Beckford was present during the initial interview of the complaining witness by defendants Chiarella and McCabe, and might also have knowledge of the circumstances which led to Sgt. Skully's eventual involvement with this case.